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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/752,669

01/08/2004

Jon H. Muskin

MUS-1006

4462

Jon Muskin
4450 South Park Ave, #912
Chevy Chase, MD 20815

7590

09/26/2007

EXAMINER

SAGER, MARK ALAN

ART UNIT	PAPER NUMBER
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3714

MAIL DATE	DELIVERY MODE
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09/26/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/752,669	Applicant(s) MUSKIN, JON H.	
	Examiner M. A. Sager	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>5/24/06</u> | 6) <input type="checkbox"/> Other: _____ |

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Claim Objections

1. Claim 12 is objected to because of the following informalities: use of acronym PDA prior to initial spelling out of personal data assistant. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-2, 5, 7-9, 11-15 and 18-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Schneier (6607439). Schneier discloses a system and game (figs. 1-13) teaching claimed steps/features including generating and storing [a plurality of] results of a random wagering game such as slot machine or bingo or keno (i.e. keno is a lottery game) by a source computer (4:58-9:40, 10:10-42, 11:61-12:3, 13:56-14:25, 20:10-46), copying the results into a portable or viewing device or copying the results onto a computer readable storage such as a PDA, HTV, plug-in module or smart card used/read by HTV (4:58-9:40, 10:10-42, 10:54-11:7, 11:61-12:3, 13:56-14:25, 18:44-47, 19:61-20:46), displaying the results on the portable viewing device or copying software onto the computer readable storage which can read the results and display the results (sic), generating results until an amount of credits from the wagering is zero (10:10-42, implicit/inherent at least since casinos require pay to play to be profitable), crediting to a purchaser or borrower of the portable viewing device an amount based on a tabulation of the results (4:58-9:40, 10:10-42, 10:54-11:7, 11:61-12:3, 13:56-14:25, 15:44-16:35, 20:10-46, 18:44-

47, 19:61-27:28), awarding non-monetary prizes based on the entire results (15:44-49), wherein each of the results has an associated monetary value (3:56-14:25, 15:44-16:35, 19:61-27:28), wherein one of the results may have an associated non-monetary prize (sic), including an apparatus with a storage storing a set of predetermined wagering game results and a processing unit reading results from the set and displaying a wagering game using the results on an output device (supra) and a computer readable storage medium having data representing a set of predetermined wagering game results and software controlling a computer to perform reading results from the set and displaying a wagering game using the results on a output device as shown above.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 3-4 and 16-17 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Schneier in view of either Gimmon

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(5096195) or Walker (6012983 or 6634942). Schneier discloses system and game comprising claimed features/steps (supra) including spinning the slot machine (reels) when a user presses a button on the portable viewing device or the software reads the results and displays a slot machine game prompted (started) by a user via player controls such as touch screen to start a graphic rendition on HTV or PDA so as to emulate existing slot machines (10:38-42, 13:56-14:25, 16:11-35, 19:61-20:25) and not allowing the user to continue to spin the slot machine when the results have all been displayed (inherent/implicit in so far as casino or game authority permits play/view for all purchased plays). Alternatively, where Schneier lacks a button. Use of button or an equivalent such as handle to start slot play is well known as taught by Gimmon or Walker ('983 or '942) for player control. Thus, it would have been obvious to an artisan at a time prior to invention to add a button as taught by either Gimmon or Walker to Schneier to permit equivalent input device for player start/prompt of game initiation. Also, the feature 'emulates existing slot machines' does not distinguish over slot play taught by Schneier in so far as Schneier displays game outcome in a slot machine format and thus emulates play of slot machine. Also, it would be obvious to emulate existing slot machines that a game authority has license so as to preclude additional royalties/payments.

7. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schneier in view of Koza. Where 'respective set of desired numbers' requires player selection of desired numbers rather than a quick pick or automated pick of values for comparison with random numbers picked, Schneier discloses a system and game teaching claimed steps/features (sic) but lacks a respective set of desired numbers. Koza discloses an apparatus as a wireless electronic ticket that teaches a plurality of random numbers as selected by a game authority or manufacturer and a

respective set of desired numbers selected by a player (4:5-11, 15-31, 4:37-6:37) so as to permit player selection of their 'lucky' symbols/numbers. Thus, it would have been obvious to an artisan at a time prior to invention to add respective set of desired numbers as taught by Koza to Schneier so as to permit player selection of their lucky numbers.

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schneier in view of either Kelmer (5816917) or Walker (6012983). Schneier discloses a system and game teaching claimed steps/features (sic) but lacks exceeds a win cap amount. Kelmer (abstract) and Walker (8:26-32, 10:3-7) each teach stopping play upon exceeding/reaching a threshold so as to provide a halt to play upon player obtaining a predetermined balance or achieve a particular outcome. Thus it would have been obvious to an artisan at a time prior to the invention to add exceeds a win cap amount as taught by either Kelmer or Walker to Schneier so as to provide a halt to play upon player obtaining a predetermined balance or achieve a particular outcome.

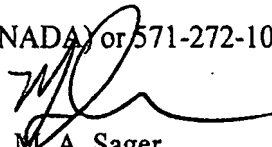
Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. A. Sager whose telephone number is 571-272-4454. The examiner can normally be reached on T-F, 0700-1730 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



M. A. Sager
Primary Examiner
Art Unit 3714

mas

5/24/04

PTO/SB/08A (07-05)

Approved for use through 07/31/2006. OMB 0651-0031

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Art Unit	3713												
Examiner Name	Sager												
Attorney Docket Number	Mus-1006												
Sheet <u>1</u> of <u>1</u>													

U. S. PATENT DOCUMENTS					
Examiner Initials*	Cite No. ¹	Document Number <small>Number-Kind Code² (if known)</small>	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
<i>[Signature]</i>		US- 2004/0147308	07-29-04	Walker et al	p48-54; p60-65; p81; p142
		US- (continued)			p177; p182; p186; p198; p202
<i>[Signature]</i>		US- (continued)			p219-220; p222
		US- 6,607,439	08-19-03	Schneider et al	col.1 II19-22; col. 4 II 60-64
		US- (continued)			col. 5 II1-9, 49-52, 66-67
		US- (continued)			col. 6 II1-3, II10-15, II20-24
		US- (continued)			col. 6 II50-55; col 10, II34-39
		US- (continued)			col 10, II 60-62
		US- (continued)			col 11 II 35-36, 43, 60-68
		US- (continued)			col 12 II1-3; col 13 II 56-59
		US- (continued)			col 14 II 1-10; col 15 II47-49
		US- (continued)			col. 16 II11-24; col 18 II29-33
		US- (continued)			col 18 II43-47; col 20 II18-23
		US- (continued)			col 24 II45-47; col 26 II48-52
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*EXAMINER: Initial if relevant considered, whether or not citation is in conformance with MPEP 809. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. ¹ Applicant's unique citation designation number (optional). ² See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. ³ Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴ For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. ⁶ Applicant is to place a check mark here if English language translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Notice of References Cited

Application/Control No.

10/752,669

Applicant(s)/Patent Under
Reexamination
MUSKIN, JON H.

Examiner

M. A. Sager

Art Unit

3714

Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-6,634,942	10-2003	Walker et al.	463/20
*	B	US-6,012,983	01-2000	Walker et al.	463/20
*	C	US-5,816,917	10-1998	Kelmer et al.	463/16
*	D	US-5,096,195	03-1992	Gimmon, Eliyahu	463/20
*	E	US-5,069,453	12-1991	Koza et al.	463/17
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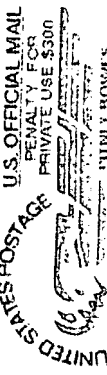
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